

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FEDERAL TRADE COMMISSION <i>et al.</i> ,	)	
Plaintiffs – Appellees,	)	Appeal No. 24-3835
	)	
v.	)	
	)	D.C. No. 2:23-cv-01495-JHC
AMAZON.COM, INC.,	)	(W.D. Wash. at Seattle)
Defendant – Appellee,	)	
	)	
v.	)	<b>REPLY TO APPELLEES’</b>
	)	<b>RESPONSES TO APPELL-</b>
AMERICAN BOOKSELLERS	)	<b>ANT’S RENEWED MOTION</b>
ASSOCIATION, INC.,	)	<b>TO SUBMIT THIS APPEAL</b>
Proposed Intervenor	)	<b>ON BRIEFS, WITHOUT</b>
Movant – Appellant.	)	<b>ORAL ARGUMENT</b>
	)	

---

No appellee opposes the renewed motion of appellant, American Booksellers Association (“ABA”), to submit this appeal on the briefs, without oral argument.

Further, contrary to Plaintiffs’ suggestion (ACMS # 51), Circuit Rule 27-1 is satisfied because ABA filed its *renewed* motion to that effect after having previously filed to like effect its broader motion -- which fully complied with that rule -- to expedite resolution of this appeal to prevent it from becoming moot (ACMS # 10). The Clerk granted that motion in part, by ordering expedited briefing, and otherwise directed that the motion be pursued with the merits Panel. ACMS # 12. ABA accordingly pursued that motion in its Opening Brief (ACMS # 17, pp. 29-32), and appellees responded in their respective Answering Briefs (ACMS # 28, pp. 35-36;

ACMS # 29, pp. 31-33). As noted in ABA's Reply Brief (ACMS # 37, p. 20), appellees did *not* oppose ABA's request to submit this appeal on the briefs, without oral argument. Thus, in renewing that request following the Clerk's tentative scheduling of oral argument in this appeal (ACMS # 45), it was not necessary for ABA to again consult with appellees regarding their position, which they had already made clear to the Court — and which they have since confirmed in response to ABA's instant renewed motion by again not opposing ABA's request to submit this appeal on the briefs, without oral argument.

Likewise, the other points proffered in appellees' respective responses to the instant motion have already been rebutted by ABA. *See* ABA's Reply Brief (ACMS # 37), pp. 19-21 & n.11; ABA's FRAP 28(j) letter (ACMS # 40); ABA's Renewed Motion (ACMS # 46), p. 2 & n.1. The latter motion should accordingly be granted in full, including ABA's related request to expedite issuance of the Court's mandate.

Respectfully submitted,

William D. Fisher, Esq.  
Potomac Law Group, PLLC  
1455 NW Leary Way, #400  
Seattle, WA 98107  
(206) 599-8888  
[wfisher@potomaclaw.com](mailto:wfisher@potomaclaw.com)

s/ Timothy W. Bergin  
Timothy W. Bergin, Esq.  
Potomac Law Group, PLLC  
1717 Pennsylvania Ave., NW, #1025  
Washington, DC 20006  
(703) 447-4032  
[tbergin@potomaclaw.com](mailto:tbergin@potomaclaw.com)

Counsel for Proposed Intervenor, Movant -Appellant  
American Booksellers Association, Inc.